



# Oregon Department of Forestry INTERAGENCY AGREEMENT

This agreement is between the **STATE of OREGON**, acting by and through its **DEPARTMENT OF FORESTRY, Central Oregon District**, hereafter called **ODF**, and **STATE of OREGON**, acting by and through its **OREGON MILITARY DEPARTMENT**, hereafter called **OMD**.

## Administrators of this agreement are:

OMD		ODF	
Administrator:	Todd E. Farmer	Administrator:	Michael Shaw
Title:	Deputy Director Installations	Title:	District Forester
State of Oregon	Oregon Military Department	State of Oregon,	Oregon Department of Forestry
Address:	1776 Militia Way PO Box 14350 Salem, OR 97309	Address:	PO Box 670 3501 NE 3rd Prineville, OR 97754
Phone:	503-584-3596	Phone:	(541) 447-5658
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Email:	todd.e.farmer.nfg@mail.mil	Email:	Michael.h.shaw@oregon.gov
Federal ID #:			

### 1. Authority

**WHEREAS**, under the provisions of ORS Chapter 477, with particular reference to ORS 477.406 to 477.412, and 477.515 ODF is authorized to enter into cooperative agreements with certain persons to prevent and suppress fire on forest land or to protect forest land against the spread of fire from other lands; and both Agencies are authorized to enter into agreements under ORS 190.

### 2. Purpose

The purpose of this agreement is to provide more effective and prompt fire suppression on these lands through mutual assistance and cooperation between ODF and OMD where sharing of agency resources, personnel, equipment and facilities is of mutual interest and desirable to further prevent the spread of fire on these lands.

### 3. Effective Date and Duration

This agreement shall become effective on the date all required signatures are obtained and, when required, approved by the Department of Justice. Unless earlier terminated, amended or extended, this agreement shall expire when OMD's completed performance has been accepted by ODF or 3 years of time of final signature, whichever is sooner.

### 4. Statement of Work

The Statement of Work, including the delivery schedule for the work, is contained in **Exhibit A** attached hereto and by this reference made a part hereof.

### 5. Consideration

A. ODF agrees to pay OMD, from available and authorized funds as provided in Section 8, the sum of up to 21 days total expenses for accomplishing the work required by this agreement. The maximum, not-to-exceed compensation payable to OMD under this agreement, which includes any allowable expenses, is 21 days total expenses.

B. Any interim payments to OMD shall be made only in accordance with the schedule and requirements in **Exhibit A**.

### 6. Amendments

The terms of this Agreement shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written amendment signed by the parties. The amendment shall be effective as of the date on

which every party has signed the amendment and all requisite approvals are obtained. All amendments to this Agreement shall comply with applicable statutes and administrative rules.

## **7. Termination**

A. This agreement may be terminated by mutual consent of both parties, or by either party upon thirty (30) calendar day's written notice.

## **8. Funds Available and Authorized**

The ODF certifies at the time the agreement is written that sufficient funds are available and authorized for expenditure to finance costs of this agreement within the ODF's current appropriation and limitation. OMD understands and agrees that ODF's payment of amounts under this agreement attributable to work performed after the last date of the current biennium is contingent on ODF receiving from the Oregon Legislative Assembly appropriations, limitations or other expenditure authority sufficient to allow ODF, in the exercise of its reasonable administrative discretion, to continue to make payments under this agreement. In the event the Oregon Legislative Assembly fails to approve sufficient appropriations, limitations or other expenditure authority, ODF may terminate this agreement without penalty or liability to the ODF, effective upon the delivery of written notice to the OMD, with no further liability to OMD.

## **9. Compliance with Applicable Law**

OMD will comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Work under this Agreement. Without limiting the generality of the foregoing, OMD expressly agrees to comply with (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

ODF's performance under this Agreement is conditioned upon OMD's compliance with the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235, 279B.270, which are incorporated by reference herein. OMD will ensure that the language "equal opportunity employer/program" and "auxiliary aids and services are available upon request to individuals with disabilities" in English and Spanish appear on each work product.

## **10. Insurance/Liability**

The agencies understand that each is insured with respect to tort liability by the State of Oregon Insurance Fund, a statutory system of self-insurance established by ORS 278, and subject to the Oregon Tort Claims Act (ORS 30.260 - 30.300). Each agency agrees to accept that coverage as adequate insurance of the other party with respect to personal injury and property damage.

**11. Self-Insurance Loss Allocation.** The Agencies agree that any tort liability claim, suit, or loss resulting from or arising out of the parties' performance of and activities under this Agreement shall be allocated, as between the state agencies, in accordance with law by the Risk Management Division of the Department of Administrative Services for purposes of their respective loss experiences and subsequent allocation of self-insurance assessments under ORS 278.435. Each party to this Agreement agrees to notify the Risk Management Division and the other agency in the event it receives notice or knowledge of any claims arising out of the performance of, or the agencies' activities under this Agreement.

## **12. Merger Clause**

*This agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements or representations, oral or written, not specified herein regarding this agreement. Both parties, by the signature below of its authorized representative, hereby acknowledges that s/he has read this agreement, understands it and agrees to be bound by its terms and conditions.*

## EXHIBIT A – Statement of Work

ODF and OMD mutually express their agreement and common understanding as follows:

### Responsibilities

#### 1) ODF Responsibilities:

- a. Initiate any requests for temporary services under this agreement within any restriction specified in Exhibit A.
- b. Pay OMD for services in accordance with the current and actual manpower and equipment rates in effect at the time such services and/or equipment is furnished. Services include specialized equipment including fire apparatus, water tenders, pumps, personnel with incident qualifications and other motor vehicles for ground transportation to and from assignments. All work performed by any OMD employees in excess of regular hours, such as overtime, will be charged in accordance with the Fair Labor Standards Act and/or applicable OMD collective bargaining unit agreement(s) in effect at the time services are furnished. The rates are inclusive of all employment-related benefits and deductions, and actual overhead expenses, such as insurance, meals, etc.
- c. ODF shall be responsible exclusively with respect to its employees, for providing for employment-related compensation, benefits and deductions that are required by law, including but limited to federal and state income payroll taxes and withholdings, workers compensation coverage, and retirement contributions.
- d. Facilitate and cooperate with OMD in interagency wildfire suppression training opportunities at no cost to OMD.
- e. Allow the OMD to utilize ODF radio frequencies during fire incidents.
- f. Provide supervision to OMD while on a wildland fire or other incidents within the jurisdiction of ODF.

#### 2) OMD Responsibilities:

- a. Provide temporary personnel and/or equipment, as OMD determines are available to the use by and at the request of the ODF for the purpose of fire suppression. Such specialized equipment includes fire apparatus, water tenders, pumps, personnel with incident qualifications and other motor vehicles for ground transportation to and from assignments. The OMD shall employ such personnel and the OMD assumes all legal responsibility as the employer of such personnel, including the payment of wages and other compensation due to such persons in compliance with applicable collective bargaining agreements, policies and Federal and State laws, supervision, direction and control. Equipment furnished must be under the legal control of the OMD.
- b. Invoice only for the actual costs incurred by the OMD within 30 days of the incident. The OMD agrees to invoice the ODF in accordance with the current and actual manpower and equipment rates in effect at the time of the incident. The rates are inclusive of all payments for wages, employee benefits, FICA, Unemployment and Workers Compensation, Bonding, and Liability Insurance. For this period, equipment and associated rates are listed as follows:
  - i. Equipment
  - ii. Personnel
- c. OMD shall be responsible exclusively with respect to its employees, for providing for employment-related compensation, benefits and deductions that are required by law, including but limited to federal and state income payroll taxes and withholdings, workers compensation coverage, and retirement contributions.
- d. Facilitate and cooperate with ODF in interagency wildfire suppression training opportunities at no cost to ODF.
- e. OMD shall perform the services under this contract as an independent contractor.
- f. Allow the ODF to utilize OMD radio frequencies during fire incidents.
- g. Be responsible for obtaining and, during this agreement continuing all licenses, permits and inspections required by law and regulations duly promulgated by law.

SIGNATURES

Oregon Department of Forestry

Oregon Military Department

Name: \_\_\_\_\_

Name: TODD FAZMEIR

Title: \_\_\_\_\_

Title: DEPUTY DIRECTOR, INSTALLATIONS

Signature: \_\_\_\_\_

Signature: [Signature]

Date: \_\_\_\_\_

Date: 6 MAR 20

SIGNATURES

Oregon Department of Forestry

Oregon Military Department

Name: Mike Shaw

Name: \_\_\_\_\_

Title: District Forester

Title: \_\_\_\_\_

Signature: Michael HSL

Signature: \_\_\_\_\_

Date: 2-27-20

Date: \_\_\_\_\_